

AMENDED IN SENATE AUGUST 25, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 142**

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### **Introduced by Assembly Member Hayashi**

*(Principal coauthors: Senators Lowenthal and Hancock)*

*(Coauthors: Assembly Members Block, Blumenfield, Coto, Davis,  
De La Torre, Evans, Mendoza, V. Manuel Perez, Skinner, Solorio,  
Swanson, and Torlakson)*

*(Coauthor: Senator Price)*

January 22, 2009

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~~An act to amend Section 104113 of the Health and Safety Code, relating to health studios.~~ *An act to amend Section 101012 of, and to add Section 17077.36 to, the Education Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately.*

#### LEGISLATIVE COUNSEL'S DIGEST

AB 142, as amended, Hayashi. ~~Health studios: external defibrillator unit requirements.~~ *School facilities: Energy Cost Savings Stimulus Program.*

*The Kindergarten-University Public Education Facilities Bond Act of 2006 (bond act), approved by the voters as Proposition 1D at the November 7, 2006, statewide general election, authorizes the issuance and sale of a total of \$10,416,000,000 in general obligation bonds. The bond act requires that \$3,300,000,000 of the proceeds from the sale of those bonds be allocated for purposes of the modernization of school facilities pursuant to specified statutory provisions. The bond act authorizes the Legislature to adjust the funding allocations specified*

*by the act only by a statute that is consistent with and furthers the purposes of the act and is approved by at least  $\frac{2}{3}$  of the Members of the Senate and the Assembly, or by a statute that becomes effective only when approved by the voters.*

*The Leroy F. Greene School Facilities Act of 1998 (Greene Act) requires the State Allocation Board to allocate to applicant school districts prescribed per-unhoused-pupil state funding for construction and modernization of school facilities. The Greene Act authorizes a modernization apportionment to be used for an improvement to extend the useful life of, or to enhance the physical environment of, a school, as specified.*

*This bill would establish the Energy Cost Savings Stimulus Program, to be administered by the board. The bill would make \$320,000,000 out of the \$3,300,000,000 in bond proceeds that the bond act allocated for purposes of modernization available to fund the program. The bill would authorize a school district to apply to the board for funding pursuant to the program if the applicant district self-certifies in the project application that it meets specified conditions. The bill would make the program inoperative 3 years after the date the bill becomes effective. The bill would require that the portion of the \$320,000,000 that remains unencumbered when the program becomes inoperative be used for purposes of the modernization of school facilities.*

*The bill would state findings and declarations of the Legislature that the bill is consistent with, and furthers the purposes of, the bond act.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law requires every health studio, as defined, to acquire, maintain, and train personnel in the use of automatic external defibrillator units. Existing law requires, among other things, that these health studios have trained employees available to respond to an emergency that may involve the use of an automatic external defibrillator unit during normal operating hours.~~

~~This bill would require a health studio that is available for use by its members for 24 hours per day, but is not staffed during that entire period, to meet specified requirements, including, but not limited to, providing live video surveillance, as defined, of a health studio during times when no trained employees are on the premises, and requiring members, during times when the health studio is not staffed with a trained employee, to use a provided device that, when activated, contacts emergency services.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17077.36 is added to the Education Code,  
2     to read:

3     17077.36. (a) There is hereby established the Energy Cost  
4     Savings Stimulus Program that shall be funded as specified in  
5     paragraph (3) of subdivision (a) of Section 101012.

6     (b) The program shall be administered by the board.

7     (c) All of the funds allocated to the Energy Cost Savings  
8     Stimulus Program by paragraph (3) of subdivision (a) of Section  
9     101012 are available for reimbursement and grant applications  
10    submitted after July 1, 2009.

11    (d) A school district may apply to the board for funding pursuant  
12    to this section if the applicant district self-certifies in the project  
13    application that the project or projects on a schoolsite will result  
14    in energy savings by achieving either of the following:

15    (1) A minimum saving of 15 percent of nonrenewable energy  
16    consumed as compared to current schoolsite consumption through  
17    energy efficiency retrofit or replacement.

18    (2) A minimum savings of 15 percent of nonrenewable energy  
19    consumed as compared to schoolsite consumption on or after July  
20    1, 2005, through energy efficiency retrofit or replacement and  
21    renewable energy generation as specified in Chapter 3.2  
22    (commencing with Section 4217.10) of Division 5 of Title 1 of the  
23    Government Code. The self-certification shall demonstrate that  
24    all reasonable and cost-efficient energy efficiency retrofits or  
25    replacements were analyzed to optimize the size of the renewable  
26    energy system. The project shall use qualifications-based selection  
27    and not sole source selection.

28    (e) The type of project or the components of the project shall  
29    comply with Section 4217.11 of the Government Code, including,  
30    but not limited to, all related ancillary components and  
31    construction, generation equipment, support structures, canopies,  
32    and foundations.

33    (f) The implementation of the project or the components of the  
34    project shall be located anywhere on the schoolsite, including on  
35    or in school facilities and land owned or leased by schools,

1 *provided that the energy generated from the project or components*  
2 *of the project serves existing facilities as specified in this section.*

3 *(g) Contracts executed prior to July 1, 2009, are not eligible*  
4 *for funding pursuant to this section.*

5 *(h) If bond funds are not available for purposes of this section,*  
6 *the board shall accept and approve applications for purposes of*  
7 *developing an unfunded approval list.*

8 *(i) The school district shall fund 40 percent of the actual project*  
9 *costs to include, but not be limited to, the cost of the equipment*  
10 *purchase and design and construction of a project pursuant to this*  
11 *section. As part of this local contribution the school district may*  
12 *include any grant, award, or other funding including, but not*  
13 *limited to, funding specified in Chapter 3.2 (commencing with*  
14 *Section 4217.10) of Division 5 of Title 1 of the Government Code,*  
15 *that the district seeks for purposes related to construction of the*  
16 *project. The school district may receive reimbursement or grant*  
17 *funding from the board for 60 percent of the actual project cost,*  
18 *not to exceed three million dollars (\$3,000,000) per schoolsite. A*  
19 *district may submit more than one project application per*  
20 *schoolsite but no single school district shall receive more than 12*  
21 *percent of the total amount of funding available for purposes of*  
22 *this section.*

23 *(j) The Division of the State Architect shall review the project,*  
24 *and certify that the project is estimated to provide a savings of at*  
25 *least 15 percent of nonrenewable energy consumed as compared*  
26 *to schoolsite consumption on or after July 1, 2005. This review*  
27 *and certification shall be completed no later than 14 calendar*  
28 *days after it is requested by the school district.*

29 *(k) Any carbon credits generated pursuant to Division 25.5*  
30 *(commencing with Section 38500) of the Health and Safety Code*  
31 *and any environmental attributes generated by the project shall*  
32 *be the property of the school district.*

33 *(l) A school district that receives funds pursuant to this section*  
34 *is ineligible for financial hardship assistance pursuant to this*  
35 *chapter for this program, except that a school district with a*  
36 *demonstrated financial need may qualify for a loan from the funds*  
37 *available for purposes of this section. The loan shall have a term*  
38 *of 10 years with a possible one-time, five-year extension. The*  
39 *interest rate on the loan shall be the same rate as that charged by*  
40 *the Pooled Money Investment Board.*

1     (m) For grant funding applications, a school district shall  
2     receive a preliminary apportionment upon submission of an  
3     application that includes a project description, a self-certified  
4     estimated energy efficiency savings equal to or exceeding the  
5     requirement specified in subdivision (j), and a cost estimate for  
6     the project. The board shall approve a preliminary apportionment  
7     that reserves the amount of the cost estimate. Funds shall be  
8     released upon submission to the board of evidence of energy  
9     efficiency review and certification performed by the Division of  
10    the State Architect pursuant to subdivision (j), which shall occur  
11    within nine months of the approval of the preliminary  
12    apportionment or the board shall rescind the preliminary  
13    apportionment. The district shall expend the funds within 12 months  
14    of the preliminary apportionment or, when a plan approval of the  
15    Division of State Architect is required, within 18 months of the  
16    preliminary apportionment. All projects pursuant to this section  
17    shall receive an adjusted final apportionment to reflect the actual  
18    cost of the project as substantiated by an expenditure report. Any  
19    funds received in excess of the cost specified in the expenditure  
20    report shall be returned to the state for purposes of this section.  
21    Additional funds shall be released to ensure that the state share  
22    of the project is equal to 60 percent of the actual cost of the project  
23    as substantiated by the expenditure report, if the funds are  
24    available.

25    (n) For reimbursement applications, a school district shall  
26    receive a final apportionment and have funds released upon  
27    submitting the construction contracts, expenditure report and  
28    evidence of the review and certification performed by the Division  
29    of the State Architect pursuant to subdivision (j).

30    (o) Within 14 days of the date this section becomes effective,  
31    the board shall adopt emergency regulations that include a  
32    reimbursement and grant application process.

33    (p) The Office of Administrative Law shall process the  
34    emergency regulations adopted by the board pursuant to  
35    subdivision (e) within 14 calendar days of their adoption.

36    (q) The board shall process and review an application submitted  
37    pursuant to this section within 45 days of receiving the application.

38    (r) Funds received by a school district pursuant to this section  
39    do not constitute a modernization apportionment pursuant to  
40    Chapter 12.5 of Article 7 (commencing with Section 17074.10)

1 *and do not reduce modernization eligibility authorized by Chapter*  
2 *12.5 of Article 6 (commencing with Section 17073.10). A school*  
3 *district is eligible for funds pursuant to this section regardless of*  
4 *its eligibility for modernization funding pursuant to this chapter.*

5 *(s) The energy efficiency and renewable energy savings realized*  
6 *from a project pursuant to this section, as calculated annually*  
7 *over the useful life of the project, shall be retained by the school*  
8 *district. The state funding shall not be reduced based on realized*  
9 *renewable energy and energy efficiency savings.*

10 *(t) This section shall become inoperative three years after the*  
11 *date it becomes effective. All of the funds made available by*  
12 *paragraph (3) of subdivision (a) of Section 101012 for purposes*  
13 *of this section that remain unencumbered when this section*  
14 *becomes inoperative shall be used for purposes of the*  
15 *modernization of school facilities pursuant to this chapter.*

16 *SEC. 2. Section 101012 of the Education Code is amended to*  
17 *read:*

18 *101012. (a) The proceeds from the sale of bonds, issued and*  
19 *sold for the purposes of this chapter, shall be allocated in*  
20 *accordance with the following schedule:*

21 *(1) The amount of one billion nine hundred million dollars*  
22 *(\$1,900,000,000) for new construction of school facilities of*  
23 *applicant school districts under Chapter 12.5 (commencing with*  
24 *Section 17070.10) of Part 10 of Division 1 of Title 1. Of the amount*  
25 *allocated under this paragraph, up to 10.5 percent shall be available*  
26 *for purposes of seismic repair, reconstruction, or replacement,*  
27 *pursuant to Section 17075.10.*

28 *(2) The amount of five hundred million dollars (\$500,000,000)*  
29 *shall be available for providing school facilities to charter schools*  
30 *pursuant to Article 12 (commencing with Section 17078.52) of*  
31 *Chapter 12.5 of Part 10 of Division 1 of Title 1.*

32 *(3) The amount of three billion three hundred million dollars*  
33 *(\$3,300,000,000) for the modernization of school facilities pursuant*  
34 *to Chapter 12.5 (commencing with Section 17070.10) of Part 10*  
35 *of Division 1 of Title 1. Three hundred twenty million dollars*  
36 *(\$320,000,000) of the amount described in this paragraph shall*  
37 *be made available for projects pursuant to the Energy Cost Savings*  
38 *Stimulus Program set forth in Section 17077.36.*

39 *(4) The amount of five hundred million dollars (\$500,000,000)*  
40 *for the purposes set forth in Article 13 (commencing with Section*

1 17078.70) of Chapter 12.5 of Part 10 of *Division 1 of Title 1*,  
2 relating to facilities for career technical education programs.

3 (5) Of the amounts allocated under paragraphs (1) and (3), up  
4 to two hundred million dollars (\$200,000,000) for the purposes  
5 set forth in Chapter 894 of the Statutes of 2004, relating to  
6 incentives for the creation of smaller learning communities and  
7 small high schools.

8 (6) The amount of twenty-nine million dollars (\$29,000,000)  
9 for the purposes set forth in Article 10.6 (commencing with Section  
10 17077.40) of Chapter 12.5 of Part 10 of *Division 1 of Title 1*,  
11 relating to joint use projects.

12 (7) The amount of one billion dollars (\$1,000,000,000) shall be  
13 available for providing new construction funding to severely  
14 overcrowded schoolsites pursuant to Article 14 (commencing with  
15 Section 17079) of Chapter 12.5 of Part 10 of *Division 1 of Title 1*.

16 (8) The amount of one hundred million dollars (\$100,000,000)  
17 for incentive grants to promote the use of designs and materials  
18 in new construction and modernization projects that include the  
19 attributes of high-performance schools, including, but not limited  
20 to, the elements set forth in Section 17070.96, pursuant to  
21 regulations adopted by the State Allocation Board.

22 (b) School districts may use funds allocated pursuant to  
23 paragraph (3) of subdivision (a) only for one or more of the  
24 following purposes in accordance with Chapter 12.5 (commencing  
25 with Section 17070.10) of Part 10 of *Division 1 of Title 1*:

26 (1) The purchase and installation of air-conditioning equipment  
27 and insulation materials, and related costs.

28 (2) Construction projects or the purchase of furniture or  
29 equipment designed to increase school security or playground  
30 safety.

31 (3) The identification, assessment, or abatement in school  
32 facilities of hazardous asbestos.

33 (4) Project funding for high-priority roof replacement projects.

34 (5) Any other modernization of facilities pursuant to Chapter  
35 12.5 (commencing with Section 17070.10) of Part 10 of *Division*  
36 *1 of Title 1*.

37 (c) Funds allocated pursuant to paragraph (1) of subdivision (a)  
38 may also be utilized to provide new construction grants for eligible  
39 applicant county boards of education under Chapter 12.5  
40 (commencing with Section 17070.10) of Part 10 of *Division 1 of*

1 *Title I* for funding classrooms for severely handicapped pupils, or  
2 for funding classrooms for county community school pupils.

3 (d) (1) The Legislature may amend this section to adjust the  
4 funding amounts specified in paragraphs (1) to (8), inclusive, of  
5 subdivision (a), only by either of the following methods:

6 (A) By a statute, passed in each house of the Legislature by  
7 rollcall vote entered in the respective journals, by not less than  
8 two-thirds of the membership in each house concurring, if the  
9 statute is consistent with, and furthers the purposes of, this chapter.

10 (B) By a statute that becomes effective only when approved by  
11 the voters.

12 (2) Amendments pursuant to this subdivision may adjust the  
13 amounts to be expended pursuant to paragraphs (1) to (8), inclusive,  
14 of subdivision (a), but may not increase or decrease the total  
15 amount to be expended pursuant to that subdivision.

16 (e) Funds available pursuant to this section may be used for  
17 acquisition of school facilities authorized pursuant to Section  
18 17280.5.

19 *SEC. 3. The Legislature finds and declares that this act is*  
20 *consistent with, and furthers the purposes of, the*  
21 *Kindergarten-University Public Education Facilities Bond Act of*  
22 *2006.*

23 *SEC. 4. This act is an urgency statute necessary for the*  
24 *immediate preservation of the public peace, health, or safety within*  
25 *the meaning of Article IV of the Constitution and shall go into*  
26 *immediate effect. The facts constituting the necessity are:*

27 *In order to provide the funds required for building energy*  
28 *efficient schools in a timely manner, it is necessary that this act*  
29 *take effect immediately.*

30 ~~SECTION 1. Section 104113 of the Health and Safety Code~~  
31 ~~is amended to read:~~

32 ~~104113. (a) (1) Commencing July 1, 2007, every health studio,~~  
33 ~~as defined in subdivision (g) shall acquire an automatic external~~  
34 ~~defibrillator. The requirement to acquire an automatic external~~  
35 ~~defibrillator pursuant to this subdivision shall terminate on July~~  
36 ~~1, 2012.~~

37 ~~(2) Commencing July 1, 2007, and until July 1, 2012, every~~  
38 ~~health studio, as defined in subdivision (g), shall maintain, and~~  
39 ~~train personnel in the use of, any automatic external defibrillator~~  
40 ~~acquired pursuant to paragraph (1).~~



1     ~~(3) On or after July 1, 2012, a health studio that elects to~~  
2     ~~continue the installation of an automatic external defibrillator that~~  
3     ~~was acquired pursuant to paragraph (1) shall maintain and train~~  
4     ~~personnel in the use of an automatic external defibrillator pursuant~~  
5     ~~to this section, and shall not be liable for civil damages resulting~~  
6     ~~from the use, attempted use, or nonuse of an automatic external~~  
7     ~~defibrillator as provided by this section.~~

8     ~~(b) An employee of a health studio who renders emergency care~~  
9     ~~or treatment is not liable for civil damages resulting from the use,~~  
10    ~~attempted use, or nonuse of an automatic external defibrillator,~~  
11    ~~except as provided in subdivision (f).~~

12    ~~(c) When an employee uses, does not use, or attempts to use,~~  
13    ~~an automatic external defibrillator consistent with the requirements~~  
14    ~~of this section to render emergency care or treatment, the members~~  
15    ~~of the board of directors of the facility shall not be liable for civil~~  
16    ~~damages resulting from any act or omission in rendering the~~  
17    ~~emergency care or treatment, including the use or nonuse of an~~  
18    ~~automatic external defibrillator, except as provided in subdivision~~  
19    ~~(f).~~

20    ~~(d) Except as provided in subdivision (f), when an employee of~~  
21    ~~a health studio renders emergency care or treatment using an~~  
22    ~~automatic external defibrillator, the owners, managers, employees,~~  
23    ~~or otherwise responsible authorities of the facility shall not be~~  
24    ~~liable for civil damages resulting from any act or omission in the~~  
25    ~~course of rendering that emergency care or treatment, provided~~  
26    ~~that the facility fully complies with subdivision (c).~~

27    ~~(e) Notwithstanding Section 1797.196, in order to ensure public~~  
28    ~~safety, a health studio shall do all of the following:~~

29    ~~(1) Comply with all regulations governing the placement of an~~  
30    ~~automatic external defibrillator.~~

31    ~~(2) Ensure all of the following:~~

32    ~~(A) The automatic external defibrillator is maintained and~~  
33    ~~regularly tested according to the operation and maintenance~~  
34    ~~guidelines set forth by the manufacturer, the American Heart~~  
35    ~~Association, or the American Red Cross, and according to any~~  
36    ~~applicable rules and regulations set forth by the governmental~~  
37    ~~authority under the federal Food and Drug Administration and any~~  
38    ~~other applicable state and federal authority.~~

39    ~~(B) The automatic external defibrillator is checked for readiness~~  
40    ~~after each use and at least once every 30 days if the automatic~~

1 external defibrillator has not been used in the preceding 30 days.  
2 Records of these checks shall be maintained.

3 (C) Any person who renders emergency care or treatment on a  
4 person in cardiac arrest by using an automatic external defibrillator  
5 activates the emergency medical services system as soon as  
6 possible, and reports any use of the automatic external defibrillator  
7 to the licensed physician and to the local EMS agency.

8 (D) For every automatic external defibrillator unit acquired, up  
9 to five units, no less than one employee per automatic external  
10 defibrillator unit shall complete a training course in  
11 cardiopulmonary resuscitation and automatic external defibrillator  
12 use that complies with the regulations adopted by the Emergency  
13 Medical Services Authority and the standards of the American  
14 Heart Association or the American Red Cross. After the first five  
15 automatic external defibrillator units are acquired, for each  
16 additional five automatic external defibrillator units acquired, a  
17 minimum of one employee shall be trained beginning with the first  
18 additional automatic external defibrillator unit acquired. Except  
19 as provided in paragraph (3), an acquirer of automatic external  
20 defibrillator units shall have trained employees who should be  
21 available to respond to an emergency that may involve the use of  
22 an automatic external defibrillator unit during normal operating  
23 hours. An acquirer of automatic external defibrillator units may  
24 need to train additional employees to ensure that a trained employee  
25 is available at all times.

26 (E) There is a written plan that exists that describes the  
27 procedures to be followed in the event of an emergency that may  
28 involve the use of an automatic external defibrillator, to ensure  
29 compliance with the requirements of this section. The written plan  
30 shall include, but not be limited to, immediate notification of 911  
31 and trained office personnel at the start of automatic external  
32 defibrillator procedures.

33 (3) A health studio that is available for use by its members 24  
34 hours per day, but that does not have a trained employee on the  
35 health studio premises for the entire 24-hour period, shall do all  
36 of the following:

37 (A) Require that all employees who work on the premises of  
38 the health studio complete a training course, within 30 days of  
39 commencing employment, in cardiopulmonary resuscitation and  
40 automated external defibrillator use that complies with the

1 regulations adopted by the Emergency Medical Services Authority  
2 and the standards of the American Heart Association or the  
3 American Red Cross.

4 (B) Ensure that a trained employee is on the premises of the  
5 health studio for no fewer than eight hours per day during each  
6 day that the health studio is available for use by its members.

7 (C) Inform a member, at the time the member contracts for the  
8 use of the health studio, that a trained employee will not be on the  
9 premises at all times.

10 (D) During times when a trained employee is not on the premises  
11 of the health studio, provide all members with a device that, when  
12 activated, contacts emergency services. The health studio shall  
13 require its members to keep the device on his or her person, as a  
14 condition of using the health studio during these times.

15 (E) Provide live video surveillance during hours when a health  
16 studio is available for use by its members but a trained employee  
17 is not on the premises. For purposes of this section, "live video  
18 surveillance" means live monitoring of the health studio premises  
19 via video technology by a person. The video surveillance system  
20 must be sufficient to permit a person monitoring an incident to  
21 make a reasonable determination whether emergency medical  
22 services or law enforcement responders should be notified, and,  
23 if necessary, to make that notification.

24 (f) Subdivisions (b), (c), and (d) do not apply in the case of  
25 personal injury or wrongful death that results from gross negligence  
26 or willful or wanton misconduct on the part of the person who  
27 uses, attempts to use, or maliciously fails to use an automatic  
28 external defibrillator to render emergency care or treatment.

29 (g) For purposes of this section, "health studio" means any  
30 facility permitting the use of its facilities and equipment or access  
31 to its facilities and equipment, to individuals or groups for physical  
32 exercise, body building, reducing, figure development, fitness  
33 training, or any other similar purpose, on a membership basis.  
34 "Health studio" does not include any hotel or similar business that  
35 offers fitness facilities to its registered guests for a fee or as part  
36 of the hotel charges.